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6 Attorneys for Complainant

7
8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. AC-2006-27

11
12 DAVID SCOTT HALCROW
11684 Ventura Boulevard, Suite 803
13 Studio City, CA 91604

OAH No. L-20007060108

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Certified Public Accountant Certificate
No. 21380

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16 Respondent.

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18 In the interest of a prompt and speedy settlement of this matter, consistent with
19 the public interest and the responsibility of the California Board of Accountancy, Department of
20 Consumer Affairs of the State of California (Board), the parties hereby agree to the following
21 Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval
22 and adoption as the final disposition of the Accusation.

23 **PARTIES**

24 1. Carol Sigmann (Complainant) is the Executive Officer of the Board. She
25 brought this action solely in her official capacity and is represented in this matter by Edmund G.
26 Brown Jr., Attorney General of the State of California, by Scott J. Harris, Deputy Attorney
27 General.

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2. Respondent David Scott Halcrow is represented in this proceeding by attorney Frederick M. Ray, whose address is 770 The City Drive, Suite 8100, Orange, California, 92868.

3. On or about April 25, 1975, the Board issued Certified Public Accountant Certificate No. 21380 to Respondent. The certificate will expire on or about August 31, 2009, unless renewed.

JURISDICTION

4. Accusation No. AC-2006-27 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 13, 2007. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. AC-2006-27 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. AC-2006-27. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in
3 Accusation No. AC-2006-27.

4 9. Respondent agrees that his Certified Public Accountant Certificate is
5 subject to discipline and to be bound by the Board's imposition of discipline as set forth in the
6 Disciplinary Order below.

7 10. The Board has incurred \$12,121.48 in investigative and prosecutorial
8 costs in this matter. Respondent understands and agrees that if he petitions for reinstatement or
9 applies for any license issued by the Board, the Respondent must pay the Board the costs
10 associated with its investigation and enforcement of this matter, as a condition of granting
11 reinstatement or issuing the license.

12 CONTINGENCY

13 11. This stipulation shall be subject to approval by the California Board of
14 Accountancy. Respondent understands and agrees that counsel for Complainant and the staff of
15 the California Board of Accountancy may communicate directly with the Board regarding this
16 stipulation and settlement, without notice to or participation by Respondent or his counsel. By
17 signing the stipulation, Respondent understands and agrees that he may not withdraw this
18 agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon
19 it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement
20 and Disciplinary Order shall be of no force or effect, and, except for this paragraph, it shall be
21 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
22 further action by having considered this matter.

23 12. The parties understand and agree that facsimile copies of this Stipulated
24 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
25 force and effect as the originals.

26 13. In consideration of the foregoing admissions and stipulations, the parties
27 agree that the Board may, without further notice or formal proceeding, issue and enter the
28 following Disciplinary Order:

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. CPA
3 21380 issued to Respondent David Scott Halcrow is revoked.

4 1. Respondent shall pay the Board its costs of investigation and enforcement
5 in the amount of 12,121.48 prior to the issuance of a new or reinstated license.

6 **ACCEPTANCE**

7 I have carefully read the above Stipulated Settlement and Disciplinary Order and
8 have fully discussed it with my attorney, Frederick M. Ray. I understand the stipulation and the
9 effect it will have on my Certified Public Accountant Certificate. I enter into this Stipulated
10 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
11 bound by the Decision and Order of the California Board of Accountancy, Department of
12 Consumer Affairs.

13 DATED: _____
14

15 _____
16 DAVID SCOTT HALCROW
Respondent

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18 I have read and fully discussed with Respondent David Scott Halcrow the terms
19 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
20 Order. I approve its form and content.

21
22 DATED: 11/28/07

23
24 
25 FREDERICK M. RAY
Attorney for Respondent
26
27
28

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. CPA 21380 issued to Respondent David Scott Halcrow is revoked.

1. Respondent shall pay the Board its costs of investigation and enforcement in the amount of 12,121.48 prior to the issuance of a new or reinstated license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Frederick M. Ray. I understand the stipulation and the effect it will have on my Certified Public Accountant Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy, Department of Consumer Affairs.

DATED: 11-28-07


DAVID SCOTT HALCROW
Respondent

I have read and fully discussed with Respondent David Scott Halcrow the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____

FREDERICK M. RAY
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Accountancy, Department of Consumer Affairs of the State of California.

DATED: 11/28/07

EDMUND G. BROWN JR., Attorney General
of the State of California

GLORIA A. BARRIOS
Supervising Deputy Attorney General


SCOTT J. HARRIS
Deputy Attorney General
Attorneys for Complainant

DOJ Matter ID: LA2006600936
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**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

DAVID SCOTT HALCROW
11684 Ventura Boulevard, Suite 803
Studio City, CA 91604

Certified Public Accountant Certificate
No. 21380

Respondent.

Case No. AC-2006-27

OAH No. L-20007060108

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, State of California, as its Decision in this matter.

This Decision shall become effective on February 24, 2008.

It is so ORDERED January 25, 2008.



FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

Exhibit A
Accusation No. AC-2006-27

EDMUND G. BROWN JR., Attorney General
of the State of California
GLORIA A. BARRIOS, State Bar No. 94811
Supervising Deputy Attorney General
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Attorneys for Complainant

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. AC-2006-27

DAVID SCOTT HALCROW
11684 Ventura Boulevard, Suite 803
Studio City, CA 91604

A C C U S A T I O N

Certified Public Accountant Certificate
No. 21380

Respondent.

Complainant alleges:

PARTIES

1. Carol Sigmann (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the California Board of Accountancy (Board), Department of Consumer Affairs.

2. On or about April 25, 1975, the Board issued Certified Public Accountant Certificate No. 21380 to David Scott Halcrow (Respondent). In March of 1989, the certificate was in a renewed status, with continuing education ("active), and remained in that status through August 31, 1989. Said certificate was renewed for the period of September 1, 1989 through August 31, 1991, with continuing education ("active). The certificate expired and was not valid during the period of September 1, 1991 through September 26, 1993,

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due to failure to pay the renewal fee and submit the declaration of compliance with education requirements.

3. Effective September 27, 1993, the certificate was renewed through August 31, 1995, upon receipt of the renewal fee and declaration of compliance with continuing education requirements (“active”). The certificate was renewed for the period of September 1, 1995 through August 31, 1997, with continuing education (“active”). The certificate expired and was not valid during the period of September 1, 1997 through October 27, 1997, due to failure to pay the renewal fee and submit the declaration of compliance with continuing education requirements.

4. Effective October 28, 1997, the certificate was renewed through August 31, 1999, upon receipt of the renewal fee and declaration of compliance with continuing education requirements (“active”). The certificate was renewed for the period of September 1, 1999 through August 31, 2001, with continuing education (“active”).

5. The certificate was suspended for the period of May 4, 2000 through July 3, 2000 (see prior discipline below). Said certificate was renewed for the period of September 1, 2001 through August 31, 2003, with continuing education (“active”). The certificate was renewed for the period of September 1, 2003, through August 31, 2005, with continuing education (“active”). Said certificate has been renewed for the period of September 1, 2005, through August 31, 2007, with continuing education (“active”).

PRIOR DISCIPLINE

6. On April 4, 2000, the Board issued a Decision in "the Matter of the Accusation Against: David Scott Halcrow, Case No. AC-99-17," which became effective on May 4, 2000. By its Decision, the Board suspended Certified Public Accountancy Certificate No. 21380 for sixty (60) days and directed Respondent to pay the Board the sum of \$4,678.67, pursuant to Business and Professions Code section 5107. The total amount of \$4,678.67 has been paid.

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JURISDICTION

7. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

8. Section 5100 states:

"After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

"(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

....

"(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

....

"(i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

"(j) Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

"(k) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses."

9. Section 5060 states:

"(a) No person or firm may practice public accountancy under any name which is false or misleading.

"(b) No person or firm may practice public accountancy under any name other than the name under which the person or firm holds a valid permit to practice issued by the board."

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1 10. Section 5063 states:

2 “(a) A licensee shall report to the board in writing of the occurrence of any of the
3 following events occurring on or after January 1, 1997, within 30 days of the date the licensee
4 has knowledge of these events:

5 “(1) The conviction of the licensee of any of the following:

6 “(A) A felony.

7 “(B) Any crime related to the qualifications, functions, or duties of a public
8 accountant or certified public accountant, or to acts or activities in the course and scope of the
9 practice of public accountancy.

10 “(C) Any crime involving theft, embezzlement, misappropriation of funds or
11 property, breach of a fiduciary responsibility, or the preparation, publication, or dissemination of
12 false, fraudulent, or materially misleading financial statements, reports, or information.

13 “As used in this section, a conviction includes the initial plea, verdict, or finding
14 of guilt, pleas of no contest, or pronouncement of sentence by a trial court even though that
15 conviction may not be final or sentence actually imposed until appeals are exhausted.”

16 11. Section 5106 states:

17 “A plea or verdict of guilty or a conviction following a plea of nolo contendere is
18 deemed to be a conviction within the meaning of this article. The record of the conviction shall
19 be conclusive evidence thereof. The board may order the certificate or permit suspended or
20 revoked, or may decline to issue a certificate or permit, when the time for appeal has elapsed, or
21 the judgment of conviction has been affirmed on appeal or when an order granting probation is
22 made, suspending the imposition of sentence, irrespective of a subsequent order under the
23 provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of
24 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty or dismissing the
25 accusation, information or indictment.”

26 12. Section 490 of the Code states:

27 “A board may suspend or revoke a license on the ground that the licensee has
28 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or

1 duties of the business or profession for which the license was issued. A conviction within the
2 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
3 contendere. Any action which a board is permitted to take following the establishment of a
4 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
5 been affirmed on appeal, or when an order granting probation is made suspending the imposition
6 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
7 Penal Code.”

8 13. Section 5107, subdivision (a) of the Code states:

9 "The executive officer of the board may request the administrative law judge, as
10 part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or
11 certificate found to have committed a violation or violations of this chapter to pay to the board all
12 reasonable costs of investigation and prosecution of the case, including, but not limited to,
13 attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

14 FIRST CAUSE FOR DISCIPLINE

15 (Conviction of a Substantially Related Crime)

16 14. Respondent is subject to disciplinary action under section 5100,
17 subdivision (a), 5106, and 490 of the Code, in that Respondent has been convicted of a crime
18 substantially related to the qualifications, functions, or duties of a Certified Public Accountant, as
19 set forth below:

20 a. On or about January 10, 2005, Respondent was convicted on a guilty plea
21 of four felony counts of violating both Title 18, United States Code, Section 1341 (mail fraud)
22 and Title 18, United States Code, Section 2, subdivision (b) (causing an act to be done) and one
23 felony count of Title 18, United States Code, Section 513, subdivision (a) (possessing a forged
24 security), in the United States District Court, Central District of California, Case No. CR 04-383-
25 FMC, entitled *The United States of America v. David Scott Halcrow*.

26 MAIL FRAUD AND CAUSING AN ACT TO BE DONE
27 (18 U.S.C. SECTION 1341 and 18 U.S.C. SECTION 2(B))

28 b. The circumstances surrounding the convictions for mail fraud (18 U.S.C.

1 Section 1341) and causing an act to be done (18 U.S.C. Section 2(b)) (Indictment Counts 4,5, 13
2 and 16) are that beginning in or about March 2000 through March 2003 Respondent devised,
3 participated in, and executed a scheme to defraud clients whom he represented in tax matters and
4 to obtain money from his clients by false and fraudulent pretenses. Respondent's scheme
5 involved sham Internal Revenue Service (IRS) tax audits of his clients and diverting client tax
6 payments.

7 Sham IRS Audits

8 i. In execution of this scheme Respondent would cause false and fictitious
9 notices of IRS audits of his clients to be mailed to his clients. Respondent would inform his
10 clients that he had received notice from the IRS that their tax returns has been selected for audit
11 and would persuade his clients that they needed his representation for the sham IRS audits.
12 Respondent would solicit and obtain retainer fees from his clients, bill his clients for fees and
13 falsely represent that he had represent them before the IRS in the sham audits. Respondent
14 caused his clients to make payment to him through the United States mails addressed to
15 respondent. Respondent engaged in the following specific conduct:

16 (1). On or about August 14, 2002, Respondent sent client "M.M.", a sham
17 Internal Revenue Service (IRS) audit notice, falsely advising the client that the IRS was in the
18 process of reviewing the client's 1999 corporate tax filing. On or about August 22, 2002,
19 Respondent requested a retainer of \$3,200 from client, which was reduced to \$1,440 and paid to
20 respondent to represent the client in connection with the sham IRS audit. (Indictment Count 4).

21 (2). On or about September 26, 2002, Respondent sent client "T.D.": (1)
22 A sham IRS notice dated September 24, 2002, falsely advising client "T.D." of an IRS audit for
23 tax year 1998; (2) Memorandum from Halcrow & Company referencing IRS tax audit for tax
24 year 1999; and (3) an invoice dated September 26, 2002 for payment of \$1,620 for retainer fee
25 and representation of the client by Respondent relating to the sham IRS tax audit for tax year
26 1999. (Indictment Count 5).

27 Embezzlement of Client's Estimated Tax Payments

28 ii. In execution of this scheme Respondent created California corporations

1 with respondent as the registered agent at respondent's business address. Respondent received
2 estimated tax payments from clients which payments the clients intended and entrusted
3 respondent to submit to the IRS on their behalf. Respondent deposited these payments with the
4 IRS to the credit of the above described corporations, not to the accounts of his clients.
5 Thereafter, respondent filed with the IRS fraudulent tax returns in the names of his corporations,
6 or his uncle, reflecting that no tax was due and requesting a federal income tax refund from the
7 IRS. The IRS refunded to the above described corporations, and his uncle, the amounts that
8 respondent had deposited with the IRS, totaling approximately \$54,327.29 in tax refund checks.
9 Respondent engaged in the following specific conduct:

10 (1). On or about March 24, 2000, Respondent solicited an estimated tax
11 payment of \$24,000 from Lifesource Water Systems, Inc. (Lifesource). On or about March 30,
12 2000, the IRS posted the payment to the account of LSWS Central, LLC (LSWS). Lifesource did
13 not authorize the payment to be credited to LSWS. On or about May 10, 1999, Respondent filed
14 documents with the California Secretary of State to incorporate LSWS. On or about August 17,
15 2001, Respondent opened a bank account in the name of LSWS at Bank of America. On or
16 about May 18, 2001, Respondent filed a Corporate Income Tax Return for LSWS, for tax year
17 2000, and requested a tax refund of \$24,000. This tax return resulted in the issuance and
18 mailing of an IRS tax refund check, dated July 11, 2001, in the amount of \$24,000, payable to
19 LSWS. (Indictment Count 13).

20 (2). On or about December 13, 2001, Respondent solicited an estimated
21 tax payment of \$30,000 from Lifewise Water 2000, LLC. On or about March 22, 2002, the IRS
22 posted the above referenced check to the account of Lifewise Water 2001, Inc. On or about
23 December 27, 2001, Respondent filed documents with the California Secretary of State to
24 incorporate Lifewise Water 2001, Inc. On or about November 2002, Respondent opened a bank
25 account in the name of Lifewise Water 2001, Inc. at Bank of America. On or about June 4, 2002,
26 Respondent filed a Corporate Income Tax Return, for Lifewise Water 2001, Inc. for tax year
27 2001, and requested a tax refund of \$30,000. This tax return resulted in the issuance and mailing
28 of an IRS tax refund check, dated September 24, 2002, in the amount of \$30,327.29, payable to

1 Lifewise Water 2001, Inc. (Indictment Count 16).

2 POSSESSION OF A FORGED SECURITY (18 U.S.C. Section 513(a))

3 c. On or about April 19, 2003, Respondent, with intent to deceive Wells Fargo
4 Bank, possessed forged security, namely, a check in the name of Wells Fargo Bank, dated
5 April 15, 2003, drawn on the bank account of Respondent's client, Haddad Advertising, Inc.
6 (Haddad), and made payable to Halcrow & Company. This check had been forged in that the
7 amount of the check and was changed from having been written in the amount of \$210 to \$3,210,
8 which resulted in a loss of approximately \$3,000.00 to Haddad. (Indictment Count 23).

9 SECOND CAUSE FOR DISCIPLINE

10 (Fiscal Dishonesty or Breach of Fiduciary Responsibility)

11 15. Respondent is subject to disciplinary action under section 5100,
12 subdivision (i), on the grounds of unprofessional conduct, in that Respondent knowingly
13 committed fiscal dishonesty or breached his fiduciary responsibility, as more fully set forth above
14 in paragraph 14.

15 THIRD CAUSE FOR DISCIPLINE

16 (Knowingly Prepared False, Fraudulent, or Misleading Information)

17 16. Respondent is subject to disciplinary action under section 5100,
18 subdivision (j), on the grounds of unprofessional conduct, in that Respondent knowingly
19 prepared false, fraudulent, or misleading information, as more fully set forth above in paragraph
20 14.

21 FOURTH CAUSE FOR DISCIPLINE

22 (Embezzlement, Theft, Misappropriation of Funds, or Property)

23 17. Respondent is subject to disciplinary action under section 5100,
24 subdivision (k) on the grounds of unprofessional conduct, in that Respondent embezzled, stole,
25 misappropriated funds, or property, as more fully set forth above in paragraph 14.

26 FIFTH CAUSE FOR DISCIPLINE

27 18. Respondent is subject to disciplinary action under section 5100,
28 subdivision (g), on the grounds of unprofessional conduct, in that Respondent engaged in willful

violation, as more fully set forth above in paragraph 14.

SIXTH CAUSE FOR DISCIPLINE

(Practicing Public Accountancy Under A Different Name)

19. Respondent is subject to disciplinary action under section 5100 and 5060, subdivisions (a) and (b), on the grounds of unprofessional conduct, in that Respondent, while engaged in the conduct described in paragraph 14, was engaged in the practice of public accountancy as Halcrow & Company, a name under which respondent did not hold a valid permit to practice.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Notify the Board)

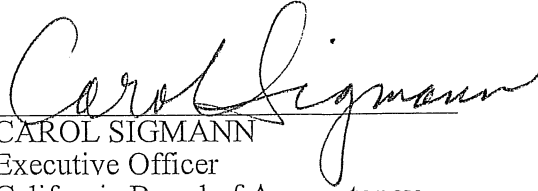
20. Respondent is subject to disciplinary action under section 5100 and 5063, subdivisions (a)(1), (b), and (c), on the grounds of unprofessional conduct, in that Respondent failed to notify the Board of his felony conviction, as more fully set forth above in paragraph 14.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking, suspending, or otherwise imposing discipline on Certified Public Accountant License No. 21380, issued to David Scott Halcrow;
2. Ordering David Scott Halcrow to pay the California Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107;
3. Taking such other and further action as deemed necessary and proper.

DATED: January 29, 2007


CAROL SIGMANN
Executive Officer
California Board of Accountancy
State of California
Complainant